Previous references.

File No. 341 – 10

1910.

Serial Nos. 1 to 6

(Mysore)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 6.

Part B. for February 1912.

SUBJECT.

Appeal against the Deputy Commissioner re the hereditary Cook and Archaka posts in the Sri Narayanaswamy Temple at Melkote.

Petition of A. Venkatarangachar of Mysore, Dated 19-12
Prays that he may be appointed as sole hereditary Cook and Archaka posts in temple.

2 To the Deputy Commissioner, Mysore Dr. No 3135
Dated 16th June 1911
Forwards the above petition for report.

G. R. S. 58 Encl to Petitioner No 3136 Dated 16th June 1911.

3 From the Dy Comr Mysore Dr. No 31 Dated 19-7-12
Submits report with recs

G.R.S. 11] 1910.

GENERAL AND REVENUE SECRETARIAT

(Inwards)

NOTES.

File No. 341-10

FILE HEADING.

Petition of Arumuda Iyengar appealing against the Dy. Commrs. order rejecting his suit for being appointed as the sole varavarddar of Cook and Arc-mane posts of Sri Narayanaswamy temple at Melkote

From

Mr. C. Seshachar, Advocate for the aplt

No. Petition Dated 19-12-1910 Received

Diary No. 1106 | Enclos 2 | Spare Copies — | Serial No. 1

BRIEF ABSTRACT OF LETTER.

Prays that his suit may be entertained and he be appointed as sole varavarddar of Cook and Arc-mane posts in the Sri Narayanaswamy Temple at Melkote.

NOTES AND ORDERS.

The facts of the case as stated in the Appeal-petition are as follows:—

The aplt M. K Arumuda Iyengar and the 3rd respt Ramaswamiengar are the uterine sons of Srinivasiengar, the orgl varavarddar

NOTES—First sheet

GPB—15,000—24-4-09.

Serial No.

of cook and Archaka in the Sri Narayana Swamy Temple at Melkote About the yr 1868. during his absence from the place, Srinivasiengar had asked his brother who is said to have been given away in adoption, to act for him, but on his return, having found that the Varawad had been Transferred to his brother's name, he applied to the Dy Commr, Hassan Dt who, after enquiry, ordered that the Varawad should be restored to the said Srinivasiengar. Some time after, Srinivasiengar died and the aplt and the 3d respt being minors, Ar Venkatachar took up the duties without prejudice to the rights of the minors. Venkatachar also died and his widow the 2d respt Rukmani-yamma got the post transferred to the name of her son in-law the 1st respt Chatri Narasimhachar. The aplt and the 3d respt became majors and pet'd the Local authorities for recognition of their right In June 1900, it is complained that the then Asstt. Supt without holding an enquiry into the claims of the aplt, simply ordered that the aplt should be a joint Varawadar with Chatri Narasimhachar

Serial No.

Thereupon the apll applied to the Local authorities and finally to the Dy Comm who concurred in the Asst Commissioner's opinion that a suit was not maintainable against the order of the Muzrai Supt.

M K Aramudu Iyengar has appealed to Govt against the above order. The grounds for appeal are summarized in para 10 of the appeal petition.

The Dasock Patti of the Melkote temple is herewith submitted as directed.

Submitted for orders

DV 23/2/11 SL

Papers incomplete in this remarks in the name Dandik Patti of Comm Pukkan is referred in Petition pl

25/2/1911

The Pukkan is stated to be not forthcoming (vide Muz. Supt's office slip)

Submitted for orders.

DV (13/3) SL 11.4.1911

Was it received at all? If so pl ascertain from Registry.

11/4/1911

It is not rept in the Dist Regr. May a copy be obtained from the Dy Commr

SL 15/4/11

Both the Lower Courts have held that the suit was not maintainable

1106(4

File No. 341 of 1910

Serial No.

as it was against an order passed by the Secretary to Govt in the Mugrai Deptt. The first point for consideration now is whether the view taken by the Courts is right or not. If there are any rulings or precedents, they may be put up, and the point noted upon.

[If it is decided to entertain the present appeal, ~~and~~ the records of the case and a report will have to be called for from the Dy Court, and the Rubkari & reply to by Mr Subramanya Iyer may be ~~suggested~~ obtd & examined in due course.]

By
1914

It is submitted that there are no rulings or precedents in the matter.

As per copy of G.O. No. C. 25-34 and 35-44 of 14.3.95 and 8.7.01 respectly in pursuance prescribing the procedure in the case of the disposal of suits relating to Poyai rights & directing that there should be only 2 appeals — one from the Amildar to the Dy Court and the other from the Dy Court to Govt whose orders will be final.

or if the Dy Court is a European officer, he can appeal to the Govt

In the case now in point, the order was passed by Govt in the Mugr: Deptt (ie by the Mugr: Secy), the application for a revision of the Govt order passed there by

NOTE— Contn. sheet.

GPB—50,000—12 8 16

Revenue | Mur File No. 341 of 1910

Serial No.

Hon'ble has to be made to Govt which may entertain the review application, & not to the Dy Comr or other subordinate officers.

Submd for orders

RL (26) 6/5/11

Please

The records may be called for from the Dy Court, with a report. Also a copy of the Rubkari refd to.

Please put up draft.

8/6/11

Submd. with DFs

RL (13) 7/6 RL

8/6/11

2 To

The Dy Comr Mysore Dt.

No 3135 D 16.6.1911

Forwards the petn for report

Encl to dep

No 3136 D 16.6.1911

Cons

3 From, the Dy. Comr, Mysore Dist

Letter no. 31 Dy 19-4-1911.

Submits report with records.

The Dy. Comrs. present report files clearly the facts of the case.

A copy of Rubkari no. 13 Dy 21-4-1900 has been received in

N

NOTE—Contn. sheet.

GPB—50,000—12 8 10

G. R. S. 12]

General and Revenue Secretariat. | File No. 3/41 of 1910

Serial No

The then Dy Commr recommended that in connection with the theft of the properties belonging to Annamalaiar Temple at Melkote, Aramadiengar having paid up the amounts due by his father the late Srinivasangar, he might be appointed as an hissedar to the posts of Adige and others in the Sri Narayanaswamy Temple in the revised Tasdik Patte of 1st August 1900, the aplt and Chalbu Narasimhachar are appointed as joint karawardars to the posts of Adige and Archane Paricharike

7 On 17th Decr 1907, he filed a Suit ~~on stamped paper~~ before the Dy Commr for declaring that he and Ramaswamy were the hakdars to the office of Cook and for cancelling the late Mutha Sethy's order the Suit having been refd to the Asst Commr, that officer after holding a regular enquiry rejected it on the ground that the Plaintiff ought to have the order of Govt of the 26th June 1900 set aside and that the Revenue Court could not re-open a case decided by or question the propriety or legality of the orders passed by Government.

NOTE.—Contn sheet

GPB—1000 26 6 11

(7

R.S. 12]

General and Revenue Secretariat. | File No. 341 of 1910

Serial No

11

On appeal to the Dy Commr, the order of the Lower Court was confirmed and the appeal rejected. In his present report the Dy Commr invites attention to G.o no R. 12785 Dy 22nd June 1905 directing that regular suits to set aside Govt orders on the miscellaneous side are manifestly unsustainable by the Lower Court unless the party concerned is refd to it by Govt

Against the Dy Commr's order, Arumudiangar has appealed to Govt He contends that both the courts below erred in throwing out the suit, that the order of the munz Supdt was no bar to maintain a suit for the declaration of the hereditary right, that the Dy Commr should have tried the suit himself and not transferred it to the Asstt Commr and that the first Court should have recorded a finding on merits In his petition of the 17th Dec 08, he states that as the munzrau Supdt's order was overlooked his hereditary right, he represented his case on several occasions, but without any effect

Submitted for orders pl

AVC(132) 31.7.09

NOTE.—Contn sheet

GPB—1000 26.6.11

R. S. 127

General and Revenue Secretariat. | File No. 341 of 1910.

Serial No

4

Issue Writ & Copy Petition
28/8/94

To, The Dy Commr, Negapatam Desire
Docket no 508 dy 18th August 1911
calls for the records of 1887
and 1868, as these were not received
with the Vernacular File

The suit relates to the post of cook in the Sri Varadarajaswami Temple at Nidamangalam.

The relationship between the parties will be clear from the following genealogical table.-

Arumuga Iyengar

Viraraghava Iyengar, Srinivasa Iyengar, Rangachariar

Arumuga Iyengar (Plaintiff) | Ramaswami Iyengar (Original Defendant) | Ranganatha Iyengar (Petitioner)

4 daughters of the | one married daughter

Venkatasubbiar (Petitioner)

The case for the plaintiff is.-

(1) the Mirasi office was gifted to Srinivasa Iyengar, father of plaintiff and third defendant, by his cousin Arumugaswami,

(2) that Srinivasa Iyengar on account of his own illness and the minority of the children prayed that the work may be taken up on behalf from his brother (given up by adoption to Arumuga Iyengar) and the request was granted and the Vetti tax in case of

NOTE—Contd. sheet

GPB—1000 26.6.11

Serial No

the duties till his death,-

(3) that on 29th October 189 , the Muzrai Secretary at the request of the 2nd defendant, widow of the deceased Are Venkatachar, ordered the baraward to be made out in favour of the 1st defendant her son-in-law,

(4) on plaintiff complaining to the Muzrai Secretary he at the time of revising the Temple Establishment in 1900 ordered that both plaintiff and 1st defendant should be joint barawardars,

(5) Plaintiff says that his subsequent representations about the injustice of this joint baraward having not been heeded he has filed this regular suit.

The case of the first two defendants is:-

(1) that the gift of the office to plaintiff's father is false,

(2) that the 1st defendant's father-in-law Are Venkatachar was not a trustee of plaintiff's father it was enjoying the office in his own right,

(3) that plaintiff's family is entitled to nothing more than the share in the office,

(4) that the suit is time barred,

(5) that the suit is not sustainable being for a mere declaration without a prayer for consequential relief

(6) that the court cannot take cognizance of it

(7) that the suit is not maintainable being based on an invalid gift -

and (8) that plaintiff is debarred by the law of estoppel

NOTE—Contin sheet

GPB—5000 26-6-01

R. S. 12]

General and Revenue Secretariat. | File No. 3ul of 1910.

Serial No

of estoppel from instituting the suit.

The 3rd defendant, a brother of plaintiff is only a pro forma defendant and he supports plaintiff.

The following issues were framed:-

I. whether there was a gift of the office of cook as alleged by the plaintiff in his plaint and whether the gift was valid

II whether Are Venkatachar was doing the duties as an Agent of the plaintiff or whether he was performing the duties independently in his own right,

III whether the suit is barred by law of limitation or estoppel,

IV whether the suit is maintainable in this court,

V whether the declaration sought could be granted.

The plaintiff and defendants 1 & 2 were the only persons examined.

The plaintiff produced the following exhibits

A. Copy of [illegible]

B. certified copy of Are Venkatachar's deposition dated 19th July of before the Amildar of Sulli [illegible]

C. Copy of order No. [illegible] dated 1st [illegible] to keep Properties of [illegible]

The following exhibits were filed on behalf of the defendants:-

I. Petition No. 4, dated 19-[illegible]

Serial No

presented by plaintiff to Huzrat Secretary.

II. Petition dated 2-2-97 presented by plaintiff to the Deputy Amildar of French- Rocks

III. Petition No. 50 dated 29-10-96 purporting to have been presented by plaintiff to the Sub-Division Officer, French-Rocks.

IV. Karar dated 22-6-96 purporting to have been executed by Are Venkatachar and plaintiff in favour of Tirumalachar.

V. Copy of the Deputy Commissioner's Yadi No. 243/699 dated 19-2-08.

The Sub-Division Officer of French-Rocks dismissed the suit holding on the 4th issue that the order of June 1900 revising the Temple Establishment was a Government order and that Revenue Court could not reopen the matter or question the propriety or legality of the orders passed by Govt He did not record any findings on the other issues

Plaintiff appealed to the Deputy Commissioner. The grounds of appeal are:-

(1) That the Sub-Division Officer was not right in holding that in a regular suit he could not reopen a question decided in a miscellaneous case

(2) That the findings on other issues had been recorded.

The plaintiff prayed for a remand for record of findings on all the issues.

The Deputy Commissioner agreed that the Sub-Division Officer in the view that he

jurisdiction to entertain a suit for setting aside an order of Government.

Plaintiff has now appealed to Government.

The grounds of appeal are:-

(1) That both the courts erred in throwing out the suit.

(2) That the order of the Huzlai Superintendent was not bar to maintain a suit for the declaration of the hereditary right.

(3) That the Huzlai Rules and practice do not preclude suits of this nature

(4) That the Deputy Commissioner should have tried the suit himself and not transferred it for trial to the Assistant Commissioner,

(5) That the first court should have recorded a finding on merits,

(6) That the order is against law, equity and justice.

The Deputy Commissioner refers to Government Order No. R 1270/[illegible]-41-04 dated 22nd June 1905 as the authority for this view taken by him and the Sub-Division Officer. That authority is perhaps applicable if the suit is regarded as one for setting aside an order of Government.

The question in this case is whether the suit is for setting aside an order of Government or for setting aside an order of the Superintendent. It is not legal to treat the order to set aside as a order of the Government. The order of October 1905 transferring the case for trial from the deposed Vemmi to the

son-in-law the first defendant at the request of the 2nd defendant is clearly referred to as that of the Muzrai Superintendent. Subsequently, the plaintiff having paid his share of the value of stolen properties, the Deputy Commissioner recommended to the Muzrai Secretary the making out of a joint patta award and this was approved and noted also in the Revised Kasdik Patta which is signed by T. Srinivasachariar as Muzrai Secretary and must therefore be taken to be a Government order.

Thus the order unfavourable to the plaintiff and the cause of the suit is really not the Revised Kasdik Patta of 1900 but the Muzrai Superintendent's order of 1899. A regular suit questioning the propriety of this summary order is perhaps unobjectionable.

If so it will be necessary to decide whether the case is to be remanded for a finding on the other issues or whether findings may be recorded here as the enquiry before the Assistant Commissioner is evidently complete. I am afraid it is not incumbent on the appellate court to invariably remand a case for recording findings; but as in the vernacular records received there appears to be enough material for the disposal of the case, I recommend that it may be disposed of after hearing the parties.

I have carefully perused the vernacular records more than once and have gathered the facts noted below:-

The patta ward of the office was in the

Serial No.

of plaintiff's father Srinivasa Iyengar

In 1858 he applied for leave and requested that his 2nd brother Are Venkatachar might be employed to do duty in his behalf. This was sanctioned.

In 1867 plaintiff's father complained that while he wanted Are Venkatachar to be a sharer, the Baravard itself had been made out in his name and prayed for rectification. The Sub-Division directed in his order No. 140 seems to have directed that Srinivasa Iyengar, Are Venkatachar and Tirumalai Iyengar should be joint baravardars. Subsequently this order was modified and the claim of plaintiff's father Srinivasa Iyengar alone recognized (Sub order No. 970 dated 10-2-1871 Exhibit C issued by Amildar of Seringapatam). Later, Are Venkatachar was examined before the Amildar on 1-7-1871 and stated (1) that he had been given in adoption, (2) that his father's name was Sriniva Iyengar and (3) that Srinivasa Iyengar alone was entitled to the office (Exhibit B).

The Deputy Commissioner, Kolar District in his Yadi No. 247/1900 dated 19-2-1900 (Exhibit D) directed that plaintiff's father Srinivasa Iyengar, Are Venkatachar and Tirumalai Iyengar should be joint baravardars.

(The original records of 1867 and 1871 are not in the file. Perhaps they are missing. They have, anyhow, been called for.) (See pages 18-20 infra)

Srinivasa Iyengar plaintiff's father seems to have acquiesced in this order. He died about

about 1092.

In June and August 1093 the plaintiff applied for this office and two others also viz, Are Ilane and Paramanatan Sannidhi Parichariker. The Desavar recommended plaintiff's appointment to the Amildar who sanctioned the recommendation. Then plaintiff complained to the Sub-Division Officer that this order had not been given effect to. In the course of the enquiry there arose no difficulty about this office and Are Ilane, Vaidyanathan Sivaramayya having to take over these two plaintiff in his turn. As regards Paramanatan Sannidhi Parichariker the Sub Division Officer's order was unfavourable to the plaintiff.

Plaintiff then went away to Srirangam and other places and was absent till 1096 when he again petitioned. In this petition (Exhibit III) it is recited that Venkatachalam had filled up Plaintiff's share also shares in this office. Plaintiff now says that this petition was not prepared by him. He seems to have been persuaded to do work in this way.

In May 1095 he applied for leave which was extended to another year.

In 1095 he again applied for the office and was permitted to work in his turn and there was correspondence about registering the office in his name. The recommendation of the Peishkar in 1095 was taken to refer only to permission, plaintiff to work in his turn. In that year or a little earlier there was a theft of articles from the temple and all the servants were, it was decided

Serial No

with the Government order, asked to make good the value of the jewels stolen. Are Venkatachar paid up Rs. 67-9-0 and Rs. 23-2-3 for cook and ayah and the biraward seems to have been paid out in his name. In the year 1899 it was reported that if plaintiff paid half the money it could also be registered. He did not pay though demanded. In the meantime the Head Superintendent visited Melkote and directed that the office should be registered in 1st defendant's name as desired by 2nd defendant. Later on plaintiff paid half the money and as recommended by the Deputy Commissioner the General Secretary in his Cabinet No. 50 dated 26-7-1900 sanctioned the plaintiff being made a joint pardar. The same was noted in the Revised Mandal Pardi also.

Plaintiff must be taken to have acquiesced in this for he did not question the propriety of this order till 1909 when for the first time, he addressed a petition to the Mandal Secretary (Exhibit I) which was returned as not bearing stamp-ed. He did not take any further steps till the date of suit.

As regards the grant of the office by Mandalwar to plaintiff's father, plaintiff says that except in the plaint he has no evidence of such grant to it. There is no other mode of proof to the Secretary about it.

For the above reasons I am clear

(1) that the alleged gift

proved,

General and Revenue Secretariat. | File No. 341 of 1910.

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(2) that Are Venkatachari was originally a [illegible] and became in 1867 or 1868 a karavaram with plaintiff's father,

(3) that plaintiff's father acquiesced in this,

(4) that after plaintiff's father's death, the karavaram was in the name of Are Venkatachari as he duly paid the value of stolen property,

(5) that plaintiff was coming only in his turn,

(6) that after Are Venkatachari's death, the karavaram was made out in 1st defendant's name at the request of 2nd defendant,

(7) that when plaintiff paid his share of the value of the stolen property he was not joint karavaram,

and (8) that the plaintiff submitted to the order till 1909 and then for the first time [illegible] he questioned the propriety of the order.

From these facts the undermentioned framings of the several issues seem to follow:-

(1) That there was no gift of the office to plaintiff's father by Ankalamma,

(2) That though Are Venkatachari was originally a [illegible] share in the office of hereditary [illegible]

(3) That the suit is barred by limitation

(4) though it is not [illegible].

Abdur Rahman J.
30/8/1911

Appt by Mr. Seshachariar
1st Respt & Counsel to explain

OFFICE—Contd. sheet

GPP—5000 26.6.11

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riat.

File N 341 of 1910 135

Serial No.

a lawyer

The Case will be adjd.

adjd as desired by
1st Nov 1911 Appellant
& Respondents informed

13/9/11

Sd
18/9/1911

Draft docket asking for the early return of the records is put? Issue

Sd
19/9/1911

RL
19/9/11

5 From, the Dy Commr, Mysore Dist
Letter no 137 Dt 2-10-1911

Reports that the records of 1868, and 1884 ending with yadi no 243 dated 8336 19th Feby 1888 are not forthcoming and that extracts from the registers have been called for, and submits the record of 1886 relating to the petition of Srinivasa (got from Srinivasapatna 7/9/11 -cengar Complaining that the barawar was made out in the name of Venkatesa,

Submitted

RL
8/10/11

Note continued

This reply of the Dy Comr has not in-
-cluded the papers now received from

NOTE—Contn sheet

GPB—50,000—27 4

Revenue t.

File No. 341 of 1910

Serial No.

Some more information in the enquiry of Ex: C. Amildar's order No 670 dd 10/2/08 has been received

There is also another order No. 216 dd 23/8/07 by which Shrimat Mukhi Division Officer's order of No. 166 dd (referred to at page 14 above) was passed in connection with the claim of Rao Thirumala Rao & Thirumalaya & Iyengar to the office

It is recited in this order that in 1881 there was some enquiry as to whether one Thirumalaya Iyengar had a share in the office as the Venkata Rao and them admitted it. When examined in pr 9 (08) (Ex: B) the Venkata Rao said that Srinivasa Iyengar (Ex: B) was the only person entitled to the office The Amildar then seems to have submitted a report to the Division Officer who passed order No 654 dd 13.8.07 in accordance with which the Amildar sent his order No 216 dd 22.8.07 to the effect that all the three persons should be invited and that anybody not satisfied with the order might file a regular suit. In accordance with this the Amildar sent order No. 216 dd 23.8.07 to the Parapattegar.

Some of the parties must have appealed to the

NOTE—Contn sheet

GPB—50,000—27-4-10

Revenue
Secretariat.

File No. 341 of 1906

Serial No.

Comr's order in his yadi No. 263 of 1900 (Ex. V) upheld this under appeal 836 against

Abdulla Haji

29/10/1911

Mr Seshachar for appt.

Mr. Narasimhachar for Govt

Govt says that he was referred to a regular suit by Govt & wants time to produce an order.

(If there is no such order, it is a question whether the appt can get an order passed in 1900 set aside).

The Case may be taken up again. (Notice will be given).

2/11/11

Fees issued for the 29th Jany 1912

29 Jan 1912

Mr Seshachar for appt

NOTE—Contn. sheet.

GPB—55,000—27-4-15

G. R S. 12
General an evenue

File No. 341 of 1910

Serial No.

Order

The ft office was registered jointly before 1900 and the arrangement was continued then under the orders of the dlwn. Deptt. The appellant petitioned against it this Course often, but got no redress. In 1905, one of his petitions was returned as being unstamped. More than 3 years afterwards (in Decr 1908) he filed a petition on a stamp paper of 10Rs which he styled a suit.

The Temple being are completely under the Control of Govt in the dlwn. Deptt, no suit can be filed in any Court; and the mere fact that petr calls his petition a plaint cannot alter its nature. Of Course the Dy Cr was right in holding that he

Note Contn sheet

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Revenue
Dept.

File No. 341 of 1910

Serial No.

Could not Cancel an order passed by a higher authority.

No Sufficient grounds are shown to revise an order passed in 1900 and so this petition of appeal is dismissed.

29/1/12

Submitted with a Dft order for Secl Consideration
AU 30/1 31.1.12

31.1.1912

Appd
2/2/12

Issue
3/2/1912

6 To Dy Comr, Mysore District.
No. 1820 dt 6th February 1912

Dismisses the appeal petition of Aramudu Dyavappa of Melkote re the appointment as the Sole Cook of Sri Narayana Swamy Temple at Melkote as no Sufficient grounds are shown to revise an order passed in 1900.

To Mr. Sheshachar, Adv for appellant.

NOTE — Contn. sheet.

GPB—50,000— 12 8 10

Revenue

File No. 341 of 1910

Serial No.

No 1821 Dt 6th February 1912
—Forwards Copy of Serial No 6.

To. Mr. Narasingracharu, Adv: for Respondents
No 1822 Dt 6th February 1912
—Forwards Copy of Serial No 6

GPB—50,000—12-8-10

D 1106

Mur 7 34

c/ Mr. Walker
on Appellant

Before The Government of His Highness the Maharaja of Mysore, in the Muzrai Department.

Appeal No. of 1910 - 1911.

M.K. Aramuda Iyengar. ..... Appellant

- Vs -

1. Chatri Narasimhachar,
2. Rukminiyamma, ... Respondents.
3. Ramaswamy Iyengar.

The appellant abovenamed begs to appeal against the decree and judgment in Appeal No.1, of 1909-1910 on the file of the Deputy Commissioner, Mysore District, confirming the decree and judgment of the Assistant Commissioner, -- French Rocks Sub Division in Muzrai Case No. 3 of 1907-1908, for the following among other -- reasons, namely,

1. That the appellant, Aramuda Iyengar and the 3rd Respondent, Ramaswamy Iyengar, are the uterine sons of Srinivasa Iyengar the original Barawardar for the service of cook and aré-mané in the Temple of Sri Narayenaswamy at Melkoté.

2. That about the year 1868 owing to some

some inconvenience, the appellant's father Srinivasa Iyengar applied to proper authority to allow a substitute to do the work in the temple. The necessary permission having been granted the said Srinivasa Iyengar asked his brother Aré Venkatachar who had been given - away in adoption, to act for him, while the Baraward stood unaltered.

3. That on return to duty the said Srinivasa Iyengar found to his cost that Aré-Venkatachar the acting incumbent to the office, some how or other got the Baraward into his - name by removing that of his brother the said Srinivasa Iyengar. Thereupon the said Srinivasa-Iyengar complained to the Temple Authorities, the Local authorities and the then Deputy Commissioner of the Hassan District in the Muzrai -- Department, who after an exhaustive enquiry recognized the justness of the complaint and ordered that the Baraward should be restored to the said Srinivasa Iyengar as the change was surreptitiously effected.

4. Some time after, the said Srinivasa Iyengar died leaving the appellant and the 3rd respondent who were then very tender in years. Seizing the opportunity occasioned by the minority of the appellant and the 3rd respondent the said Venkatachar took up the duties of a Cook and Aré-mané in the said Sri Narayanaswamy Temple without prejudice to the rights of the minors.

5. During the minority of the appellant and 3rd respondent the said Venkatachar also died -and his widow the 2nd respondent got the post of Cook and Aré-mané transferred to the 1st respondent, her son-in-law.

6. That after the appellant and the 3rd respondent became majors, they made repeated appeals to the authorities concerned to restore the office to them, and urging that respondents 1 & 2 or the deceased Are Venkatachar had no manner of right to hold or continue in office.

7. That in June 1900 the then Mugrai Superintendent Rai Bahadur A. Srinivasacharlu without holding an enquiry into the claims of the appellant --- simply ordered that the appellant should be a joint Barawardar.

8. That as the Summary order of 1900 did not adjudicate the claim of the appellant in preference to that of the respondents 1 & 2, a series of applications proving no avail, the appellant was obliged to file a regular suit for a declaration of his -- hereditary right to the post and for a complete - restoration to the office and excluding the claim of the 2nd respondent by the removal of the 1st respondent. The brother of the appellant was added as a defendant in the case as he refused to join as plaintiff.

9. The suit was filed in the Court of the

Deputy

5

Deputy Commissioner who transferred it to the Assistant Commissioner, French Rocks Sub Division who tried the case, but threw out the suit on the ground that a suit was not maintainable against the order of the Muzrai Superintendent. The Deputy Commissioner of Mysore to whom an - appeal was preferred against the dismissal rejected it ~~concerning~~ Concurring in the opinion of the Assistant Commissioner. Hence the appeal to Government:

1. The appellant, upon the facts as setforth, submits

(a) that the both the Courts below erred in throwing out the suit;

(b) that the order of the then - Superintendent was no bar to maintain a suit for the declaration of the hereditary right;

(c) that the Muzrai Rules and Practice do not preclude suits of this nature;

(d) that the Deputy Commissioner should have tried the suit himself and not transfer it and trial to the Assistant Commissioner;

(e) that the first Court should have recorded a finding on merits;

(f) that order is against law, equity and justice.

19th December 1910.

ಅ. ಸ್ಥ ಅಯ್ಯಂಗಾರ್

per order

G.R.S. 29A]

19

From

Secy. to the Govt. of His Highness
The Maharaja of Mysore,
Genl. and Rev. Dept.

To

The Dy Commr
Mysore Dist

Dated

Despatched 16th June-1911.

Received

General No. 3135

Jmnl No. 384-10-2

Enclosure No. 3

Has the honor to forward herewith for report & records, petition recd. no D 1106 Dy 19th December 10 from Anandu Iyengar appealing against the Dy Commrs order rejecting his suit for being appointed as the sole karawaddar of Cook and Archaka) posts of Sri Narayana Swamy Temple at Melkote. A Copy of Rubkar

GPB—20,000—24-10-10

Dy. Comm^r, Mysore Div^n, on the subject may also be ~~kindly~~ submitted

By order,

5/6/11

2 Pps

No 3136 Dy 16/6/1911.

Mur 3447 10-2

Endorsement.

In reply to his petition regd as D. 1106 Dy 19th Decr 1910 appealing against the Dy. Comrs. order rejecting Aramudu Iyengar's suit petition for being appointed as the sole karawarddar of Cook and Arc mane posts of Sri Varazanaswamy temple at Melkote, Mr C Seshachar, Advocate, is informed that a copy of the report with records on the subject, has been called for from the Dy. Comr, Mysore Dt.

This Petn has been sent to the Dy Comr Mysore Dt. for report with records

In forwarding consider this petn along with the Notice of this enclosed

By order,

6/6/11

Dy

5/6/1911

Dy Secretary

12

D No 135

No 1906-11
Muz-7 341-10-3

From

M.S. Kantaraj Urs Esq., B.A
Deputy Commissioner,
Mysore District.

To

C.S. Balasundaram Iyer Esq., B.A
Offg: *Secy. to Govt. of Mysore,*
Gen. & Rev. Depts.
Muzrai Branch

Dated

Despatched 19th July 1911

Received

General No. 31
No.

Enclosure No. 1 file

Submits herewith the records relating to the Appeal petition of Aramudiengar for the post of cook as Archaka in the Sri Narayana Swami temple at Melkote.

Continue note
RL
21-7-11

21/7/11

GBPM—21-9-1910—1,000

No. 34
Enc. No. Nil

OFFICE OF THE Deputy
MYSORE DISTRICT,

Dated Mysore Camp 19th July 1911.

FROM

M. Kantaraj Urs Esq., B.A
DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

C.S. Balasundaram Iyer Esq., B.A
Offg SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.
Muzrai Branch

SIR,

In reply to your docket No. 3135 muz 341-10-2 dated 16th June 1911 forwarding for report petition (herewith retransmitted) from Aramudiengar appealing against the Deputy Commissioner's order rejecting his suit for being appointed as the Sole barawanddar of cook and Aramane posts in the Sri Narayana Swamy temple at melkote, I have the honor to submit herewith the records connected with the case and to state as follows:- —

2 on 17 December 1908 the petitioner filed a suit in this office for declaring that he

he and Ramaswamiengar were the hak-
-dars to the office of cook in Sri Narayana
Swami temple at Melkote and for cancelling
the order of the Muzrai Secretary. The appeal
petition was preferred to the Sub divisional officer
French-Rocks with a request that the case should
be taken on the file of his court and disposed
of after holding a regular enquiry. In pur-
-suance of the above order the Sub divisional
officer held a regular enquiry and dismiss-
-ed the suit with costs (Vide judgment dated
2nd march 1910 in appeal No. 3 of 1907-1908 here-
-with submitted in original wherein the facts of
the case are fully dealt with).

3 Against the above order the petitioner
preferred a regular appeal to me on 28th
march 1910 praying to set aside the decree of
the lower court and to remand the case. After
hearing the argument of the Advocate for the

petitioner

the order of the lower court on 9th November 1910 and dismissed the suit with costs as the most important issue raised in the suit was whether the suit was maintainable since it was practically sought to have the order of the Muzzai Secretary dated 26th July 1900 set aside. (Vide G. O No. R 12785 dated 22nd June 1905 directing that regular suits to set aside Government orders on the miscellaneous side are manifestly unsustainable unless the party concerned is referred to it by Government.

Mds 416-04-4

4. The present appeal is against my order of 9th November 1910 herewith submitted in original.

5. A copy of Rubakari dated 21st July 1900 is herewith submitted.

I have the honor to be,

Sir,

your most obedient servant

For Deputy Commissioner
Bellary District

16

Enclosure to D No. 135
Dms 341/10-2

Endorsement No 13 dated 21.7.1900.

ಮಾ-ಳಗಂ ಲ್ಲಿ, ಈದಿನ ಮಂಗಳ ವಾರ ದಿ. ೨೬ನೆ ಆಗಸ್ಟ್ ಮಾಸ
ಲ್ಲಿ ಇಷ್ಟಾರ ಮಟಂ ಆಯಿತು ಎಂಬ ಸಂಗತಿಯನ್ನು ಇಲ್ಲಿ
ಬರೆದಿರುವ ಮೇರೆಗೆ ಸಹಿ ಮಾಡಿದೆವು. ಇದಕ್ಕೆ
ಇನ್ನು ಕೆಲವು ಮಂದಿ ಸಾಕ್ಷಿಗಳು ಸಹಿ ಮಾಡಿದ್ದಾರೆ.

ಸಹಿ/- ಎಸ್. ಶಿವಪ್ಪ ಶೆಟ್ಟಿ
ಸಹಿ/- ಎಸ್. ಶಿವಪ್ಪ ಶೆಟ್ಟಿ

Copy taken from the Register.

S Shivappa Shetty
for Deputy Commissioner
Mysore District

mediate

Dft as per side

18

G.R.S. 29A]

Issue by day.

190 .

From

Secy. to the Govt. of His Highness the Maharaja of Mysore, Genl. and Rev. Dept.

To

The Dy Commr,

Dated Mysore Dist

Despatched 28th August 1911

Received

General No. 508

Jud. No. 341-10-24

Enclosure No. -

His Letter no 31 Dy 19th July 1911 forwarding the records relating to the appeal of Aramadiengar to the office of Cook in the Sri Narayanaswamy Temple at Melkote

Has the honor to State

1868. when apl's father
Aramudu Srinivasiengar
applied for deane, and
the records of 1887
ending with yadi no
243/836 dy 19th Feby 1888
from the dy Commr,
Mysore Divn, to the Sub
Divl Officer, French-Rocks
are not found in the
Vernacular file, now sent,
and to
request that these may
be sent before the
18th prox. on which
date the case is to
be heard before Govt.

By order,

28/8/89

Secy

28/8/89

20

190

From

M. Kanakaraj Urs Esq., B.A
Deputy Commissioner,
Mysore District.

To

C. S. Balasundram Iyer Esq., B.A
Secy. to Govt. of Mysore,
Gen. & Rev. Depts.

DIARY No. 529

19 11-19 12

SECTION Miscl

B. P. No. 341-10

No. 5

Dated Judl. Branch

Despatched 2.10.11

Received

General No. 137

No.

Enclosure No. 16 to 16

Submits report re certain records relating to the appeal petition of Aramadu Iyengar

P. Venkata Rao
Extra Asst
Registration
with the file
2/10/911

No.
Enc. No. 1 file

OFFICE OF THE Deputy Commissioner
MYSORE DISTRICT,

Dated Mysore Camp 7th October 1911.

FROM

Mr. Kantaraj Urs Esq. B.A
DEPUTY COMMISSIONER, MYSORE DISTRICT.

To

C.S. Balasundaram Iyer Esq., B.A
Offg. SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.
Nunjai Branch

SIR,

In reply to your docket No. 508
Nunj 7 341-10-6
dated 28th August 1911 calling for the submission of certain records relating to the appeal petition of Ramadurgar to the office of Cook in the Sri Narayana Swami temple at Melkote, I have the honor to submit herewith, vide camp No. 19/148 dated 15th September 1911 received from the Sub-Divisional officer French Rocks Division stating that the records of 1868 and 1887 ending with year No. 243/836 dated 19th February 1888 are not forthcoming, that extracts from the Registers have been called for and that the records pertaining to the complaint of Srinivasiengar complaining that the barawari has been made

in the name of Venkata Char, have been Sub-
-mitted.

I have the honor to be,

Sir,

your most obedient Servant

J Richardson

for Deputy Commissioner

Mysore District

File No. 341-16
Serial No. 6

Diary No. of letter replied to 618

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

, the 19

Date of issue 6-2-1912

Signed by Mr CS Sc 67

READ—

Petition regd no 1106 Dy 19th Decr 1910 from Aramuan Iyengar of melkote appealing against the Mysore Dy Commrs order rejecting his suit for

~~ORDER THEREON.—~~ No.

being appointed as the sole Karavaradar of Cook and Archaka in charge of Sri Narayana Swamy Temple at melkote

correspondence ending

over with

SUBJECT.

from the Dy. Commissioner, Mysore Distt., reporting with records relating to the appeal.

Order thereon — pp 1820 — Encl 2 files

Dmis 3841-00-6.

The case was heard on 6/2/12 by Govt on the 29th Jany. 1912.

2. The office was registered jointly before 1900 and the arrangement was continued under the orders of the Muzrai Deptt. The aplt petitioned against this course often, but got no redress. One of his petitions was returned as being unstamped. More than 3 years afterwards (in Decr 1908) he filed a petition on a stamp paper of 10 ~~Rs~~ which he styled a Suit.

The temple being one completely under the control of Govt in the Muzrai Deptt, no suit can be filed in any court;

G.L. S.—27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

and the mere fact that petr calls his petition a plaint cannot alter its nature. of course the Dy Commr was right in holding that he could not cancel an order passed by a higher authority.

no sufficient grounds are shown to revise an order passed in 1900 and there so the petition of appeal is dismissed.

Dy 31.1.1912

(C's order)

BL for Mg Secretary
31/1/12

Dy 2/2/12

To,
The Dy. Commr, Mysore Dist,
Mg the records.

No 1821 / Dy 6.2.12 Copy to-
M-7 341-10-6

mr Seshachar for aplt
mr Alasingacharlu for respts

No. 1822 Dy 6-2-12 Copy to-
M-7. 341-10-6

GPB—10,000—22-2-11

Proceedings of the Government of His Highness the Maharaja of Mysore, Muzrai, dated 6th February 1912.

READ—

Petition Registered No. 1106, dated the 19th December 1910, from Aramudu Iyengar, of Melkote appealing against the Mysore Deputy Commissioner's orders rejecting his suit for being appointed as the sole cook of Sri Narayanaswami temple at Melkote.

Correspondence ending with letter No. 156, dated the 20th October 1911, from the Deputy Commissioner, Mysore District.

No. 1820—MUZ. 341-10, DATED BANGALORE, 6TH FEBRUARY 1912.

ORDER THEREON.—The case was heard by Government on the 29th January 1912.

2. The office was registered jointly before 1900, and the arrangement was continued under the orders of the Muzrai Department. The appellant petitioned against this course often, but got no redress. One of his petitions was returned as being unstamped. More than three years afterwards (in December 1908) he filed petition on a stamp paper of Rs. 10, which he styled a suit.

The temple being one completely under the control of Government in the Muzrai Department, no suit can be filed in any Court, and the mere fact that petitioner calls his petition a plaint cannot alter its nature. Of course, the Deputy Commissioner was right in holding that he could not cancel an order passed by a higher authority.

No sufficient grounds are shown to revise an order passed in 1900 and so this petition of appeal is dismissed.

Draft

Offg. Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Mysore District, returning the records.

Exd. —C. V.